IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

OP.No. 36850 of 2002(J)

PETITIONER:

K.G. MOHANACHANDRAN, SENIOR SUPERINTENDENT (RETIRED), ELCTRICAL MAJOR SECTION, KOLLAKADAVU, PRESENTLY RESIDING AT LEKHA BHAVAN, KAITHA NORTH, CHETTIKULANGARA, MAVELIKKARA.

BY ADV. SRI.GEORGE JACOB (JOSE)

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD, VYDHUTHI BHAVANAM, THIRUVANANTHAPURAM REPRESENTED BY ITS SECRETARY.

2. THE CHASIRMAN, KERALA STATE ELECTRICITY BOARD, VYDHUTHI BHAVANAM, THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER (H.R.M.), VYDHUTHI BHAVANM, THIRUVANANTHAPURAM.

4. THE FINANCILA ADVISOR AND CHIEF INTERNAL AUDITOR, KERALA STATE ELECTRICITY BOARD, VYDHUTHI BHAVANAM, THIRUVANANTHAPURAM.

BY ADV. SRI.T.G.RAJENDRAN SC FOR K.S.E.B.
SRI.C.K.KARUNAKARAN,SC,KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO.36850 OF 2002 APPENDIX

Petitioner's Exhibits

Ext.P1: True copy of the representation filed by the petitioner on 28-3-2002

Ext.P2: True copy of the representation dated 18-4-2002 addressed to the 3rd respondent

Ext.P2(a): True copy of the statement showing the comparative service details of the petitioner's juniors appended to Ext.P2 representation

Ext.P3. : True copy of judgment dated 27-8-2002 in O.P 24187/2002

Ext.P4: True copy of the letter dated 6-10-2002 of the Chief Engineer.

Ext.P5: True copy of the petition dated 26-10-2002 filed by the petitioner addressed to the 3rd respondent

Ext.P6: True copy of the communication dated 24-10-2002

Ext.P7: True copy of the communication dated 14-11-2002 of the 3rd respondent

Ext.P8: True copy of the petition filed by Sri.K.C.Babu requesting that the anomaly in pay fixation in comparison with that of his junior Sri.P.M.Joseph to be rectified.

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A.K.BASHEER.J

O.P. No.36850 OF 2002

Dated this the 17th day of January 2007

JUDGMENT

The plight of a retired employee of the Kerala State Electricity Board who had been denied grade promotions, is brought into focus in this original petition.

2. Petitioner who had joined service of the Board in September 1968 as Junior Assistant/ Cashier, was promoted as Senior Assistant on with effect from December,1975. It is not in dispute that going by clauses 1 to 3 of Article 8 of the Memorandum of settlement entered into between the Board and the various Trade Unions. Petitioner ought to have been given grade promotions as indicated in those claims. But grade promotion was denied to him on completion of ten years in the post of Senior Assistant. In other words the petitioner ought to have been promoted as Senior Superintendent on 18-12-1985. The next promotion as Assistant Accounts Officer or at least the second grade promotion ought to have been given to the petitioner on 18-12-1993. Further on completion of 25 years of service the petitioner ought to have been given the next grade promotion or promotion as Accounts Officer as the case may be, on 18-12-2000 . It is beyond controversy that petitioner was given none of these promotions or

grade promotions till his date of retirement on 30-12-2001,though on 19-9-1998 he was in fact promoted as Senior Superintendent. On objection being raised at that stage he was given notional promotion as Senior Superintendent with effect from 10-9-1993.

3. Anyhow the crux of the issue is that the petitioner was not given the grade promotion at the relevant point of time which fell due. Learned standing counsel for the Board fairly concedes that the above anomaly stares at the face of the Board and that the petitioner was denied the promotions/ grade promotions at the relevant point of time.

4. Having perused the relevant clauses of Article 8 of the Memorandum of Settlement which are extracted at page 2 & 3 of the original petition, I have no hesitation to hold that the petitioner was entitled to get the promotions/ grade promotions on 18-12-1985, on 18-12-1993 and 18-12-2000. The Board shall pass appropriate consequential orders and re-fix the scale of pay of the petitioner accordingly. He shall also be given the entire retirement benefits pursuant to the re-fixation to be effected in terms of the grade promotions. The petitioner shall also be paid the arrears of salary after re-fixation. It has to be noticed that the respondents have not filed counter- affidavit , though this original petition has been pending since 2002.

5. The other grievance of the petitioner is that his salary was liable to be stepped up taking into account the pay received by his juniors. In fact the issue in relation to the denial of grade promotions and also the stepping up of his pay had been considered by this Court in Ext.P3 judgment in which the Board was directed to consider the above two issues and take a final decision in the matter. The Board had passed Ext.P4 order thereafter. A perusal of the said order shows that the officer who issued it had not applied his mind at all. Of course the officer had referred to Ruling 1 C under Rule 28 A Part I of Kerala Service Rules. However the crucial aspect of the issue was not considered by the officer. Learned counsel for the petitioner has invited my attention to Ext.P2(a) chart showing the service details of the petitioner and that of two junior officers viz. Sri.P.M.Joseph and Sri.K.C. Babu. It has not been disputed before me that the two persons mentioned above were juniors to the petitioner. It is seen from Ext.P2(a) that the petitioner was denied grade promotion at the time when the other two juniors were given those benefits. Petitioner's salary was not re-fixed in terms of the grade promotion which ought to have been done. Thus there was anomaly as mentioned under Rule 28A which ought to have been rectified in terms of Ruling 1 under the above Rule. This aspect of the matter was not considered by the officer who passed Ext.P4

order. Having regard to the entire facts and circumstances I am satisfied that the anomaly is liable to rectified. Petitioner's pay has to be stepped up in terms of the grade promotions which ought to have been given to him from the respective dates mentioned above. .

6. The respondent shall pass appropriate consequential orders in terms of the directions issued above, as expeditiously as possible at any rate within one month from the date of receipt of a copy of this judgment. The entire arrears shall be disbursed to the petitioner within one month from the date of passing such orders.

The original petition is disposed of in the above terms.

A.K.BASHEER ,JUDGE

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